ARIZONA STATE BOARD OF PHARMACY 1700 W. Washington Street, Room 250 Phoenix, Arizona 85007 (602) 771-2727

In the Matter of:

KIMBERLY FUNK

Holder of License No. T016987 As a Pharmacy technician In the State of Arizona FINDINGS OF FACT, CONCLUSIONS of LAW and BOARD ORDER No. 09-0036-PHR

On May 6th, 2009 the Arizona State Board of Pharmacy ("Board") considered the State's Motion to Deem Allegations Admitted at the Board of Pharmacy Offices, 1700 W. Washington Street, Room 312, in Phoenix, Arizona. Elizabeth Campbell, Assistant Attorney General, appeared on behalf of the State. Respondent did not appear.

On May 6th, 2009 the Board granted the State's Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1927.01(O) and the Complaint and Notice of Hearing No. 09-0036-PHR filed in this matter, the Board issues the following Findings of Fact and Conclusions of Law, and Order revoking Respondent's license.

FINDINGS OF FACT

- 1. On January 2, 2009, Respondent was convicted of possession of dangerous drugs (methamphetamine), a class 4 felony, and possession of drug paraphernalia, a class 6 felony, in Yavapai County Superior Court case number CR 2008 1246.
 - 2. Methamphetamine is a dangerous drug. A.R.S. § 13-3401(6)(b)(xiii).
- 3. Respondent failed notify the Board that she had been criminally charged. Respondent's former employer informed the Board in October 2008 that Respondent had been arrested and was awaiting sentencing.

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CONCLUSIONS of LAW

- 1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 et seq.
- 2. Pursuant to A.R.S. § 32-1927.01(A)(1), the Board may discipline a pharmacy technician who has engaged in unprofessional conduct.
- 3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(6) (Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude, or any drug related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.).
- 4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(8) (Violating a federal or state law or administrative rule relating to marijuana, prescription only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the Board or by conviction in a federal or state court).
- 5. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-3208(A) (A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed).

ORDER

In view of the Findings of Fact and Conclusions of Law, the Board issues the following Order:

Pharmacy Technician license number T016987 issued to Respondent is **REVOKED**. A.R.S. §
32-1927.01(B)(1).

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified of the right to petition for a rehearing or review by filing a petition with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.C.C. R4-23-128. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court.

DATED this day of May, 2009.

ARIZONA STATE BOARD OF PHARMACY

SEAL

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Hal Wand, R.Ph. Executive Director

COPIES mailed this \ \ day of May, 2009, by Certified Mail Receipt No. _ _ _ 7007 2680 0001 2491 9956 to: Kimberly Funk 20262 E. Bear Canyon Cordes Lakes, Arizona 86333 Respondent **COPIES** of the foregoing mailed this \ \ day of May 2009, to: Elizabeth Campbell, Assistant Attorney General and Christopher Munns, Assistant Attorney General, Solicitors Office Both located at 1275 W. Washington Phoenix, AZ 85007